

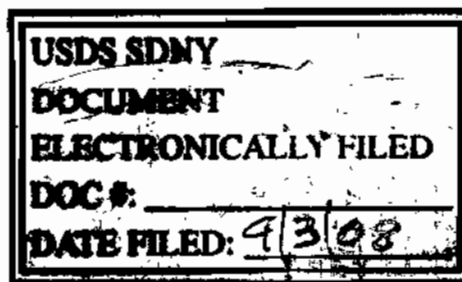
**MEMO ENDORSED**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKMATHEW J. TOMBERS, on behalf of himself and  
all other persons similarly situated,

Plaintiff,

- against -

FEDERAL DEPOSIT INSURANCE CORP.,

Defendant.

**MEMO ENDORSED**

08 CV 5068 (NRB) (JCF)

DECLARATION IN  
PARTIAL OPPOSITION  
TO MOTION FOR  
SUBSTITUTION

*Endorsement*  
*Treating this declaration*  
*as a motion to reargue,*  
*it is denied.*  
*So Ordered:*

Roger Bernstein declares as follows pursuant to 28 U.S.C. § 1746:

1. I am counsel for plaintiff in this case and am personally familiar

with the facts and circumstances set forth below.

2. Pursuant to S.D.N.Y. Rule 6.1(b), this Declaration is submitted in partial, limited opposition to the motion of the Federal Deposit Insurance Corporation ("FDIC") for substitution filed on August 1, 2008.

3. Since defendant's motion was filed on August 1, 2008, the opposition papers thereto are due ten business days thereafter on August 15, 2008. S.D.N.Y. Rule 6.1(b). Plaintiff has previously submitted a letter to the Court concerning the issue of a stay and the briefing schedule in this action.

4. On August 11, 2008 the Court issued an order granting the motion for substitution, granted defendant's application for a stay, and set a briefing schedule.

*Samuel Bernstein*  
*Bernstein, USA*  
*9/3/08*